

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DANIEL MICHAEL CHAVEZ,
Plaintiff,

Case No. 1:12-cv-659-CL

v.

STATE OF OREGON, et al.,
Defendants.

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews the legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983). I have given this matter *de novo* review.

Plaintiff was convicted in state court of attempted sexual abuse and private indecency. The Oregon Court of Appeals reversed

and remanded. State v. Chavez, 248 Or. App. 260, 272 P.3d 167 (2012) (trial court erred in admitting physician's testimony on sexual abuse when there was no physical evidence).

In his complaint, plaintiff names the trial court as defendant and seeks to recover \$72,000 he paid in attorney's fees for defense counsel and \$5,000 for travel expenses. I agree with Magistrate Judge Clarke that defendant is immune from liability, and that the complaint's deficiencies cannot be cured by amendment. I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#6) is adopted. This action is dismissed with prejudice, but without prejudice to plaintiff's right to file an appropriate petition for habeas corpus relief.

IT IS SO ORDERED.

DATED this 21 day of June, 2012.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE